

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MYRTIS PAULO HART,

Plaintiff,

vs.

No. CIV 21-0131 JB/SCY

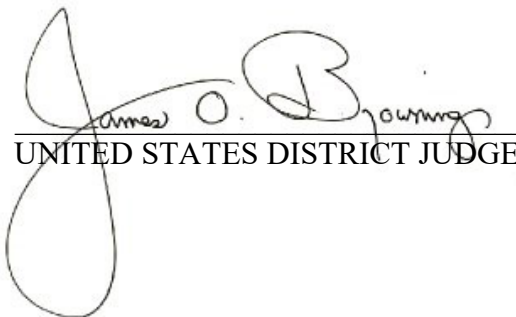
CORRECTIONAL OFFICER GUADALE and
CORRECTIONAL OFFICER PEREZ,

Defendants.

MEMORANDUM OPINION AND ORDER

THIS MATTER comes before the Court on: (i) the Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, filed February 16, 2021 (Doc. 2) ("§ 1915 Motion"); (ii) the Application to Proceed in District Court Without Prepayment of Fees or Costs, filed March 1, 2021 (Doc. 7) ("IFP Motion"); and (iii) the Motion to Dismiss, filed March 1, 2021 (Doc. 6) ("Letter Motion"). In the Letter Motion, Hart states, in full, "[i]n pursuit of proper proceedings and in compliance with Civil Procedure I move to dismiss case 21-CV-131-JB-SCY." Letter Motion at 1. The Court construes the Letter Motion as a request for voluntary dismissal under rule 41(a)(2) of the Federal Rules of Civil Procedure. See Hall v. Bellmon, 935 F.2d 1106, 1110 (10th Cir. 1991) ("A pro se litigant's pleadings are to be construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers."). Rule 41(a)(2) provides that "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper." Fed. R. Civ. P. 41(a)(2). The Court will grant Hart's request in the MTD under rule 41(a)(2) and dismiss the case without prejudice. The Court will also grant both the § 1915 Motion and the IFP Motion, and it will waive the initial partial filing fee under 28 U.S.C. 1915(b)(1).

IT IS ORDERED that: (i) Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915, filed February 16, 2021 (Doc. 2), is granted; (ii) the Application to Proceed in District Court Without Prepayment of Fees or Costs, filed March 1, 2021 (Doc. 7), is granted; (iii) the Motion to Dismiss, filed March 1, 2021 (Doc. 6), is granted; and (iv) and the Court will enter a separate Final Judgment.



James O. Downing
UNITED STATES DISTRICT JUDGE

Parties:

Myrtis Paulo Hart
Las Lunas, New Mexico

Plaintiff pro se